UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:14-HC-2149-D

BOBBY RAY PARKER,)
Petitioner,)
v.)) ORDER
JUSTIN ANDREWS,))
Respondent.))

On July 9, 2014, federal inmate Bobby Ray Parker ("petitioner") filed a habeas petition under 28 U.S.C. § 2241 [D.E. 1] and accompanying memorandum and exhibits [D.E. 1-1-2]. Respondent moved to dismiss. [D.E. 6]. On September 28, 2015, Magistrate Judge Numbers issued a Memorandum and Recommendation ("M&R") recommending that the court dismiss the petition without prejudice. See M&R [D.E. 10]. On October 15, 2015, petitioner filed objections to the M&R. [D.E. 11].

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." <u>Diamond v. Colonial Life & Accident Ins. Co.</u>, 416 F.3d 310, 315 (4th Cir. 2005) (alteration, emphasis, and quotation omitted); <u>see</u> 28 U.S.C. § 636(b). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." <u>Diamond</u>, 416 F.3d at 315 (quotation omitted). The court has reviewed the M&R, the record, and petitioner's objections. As for those portions of the M&R to which petitioner made no objection, the court is satisfied that there is no clear error on the face of the record.

As for petitioner's objections, Judge Numbers concluded that the court lacks jurisdiction to

address petitioner's section 2241 petition because 28 U.S.C. § 2255 is not inadequate or ineffective

to address his claims. See M&R 3-5. This court has reviewed the objections de novo and reached

the same conclusion. Petitioner's objections [D.E. 11] restate the arguments that he made to Judge

Numbers and do not show 28 U.S.C. § 2255 inadequate or ineffective to address his claims.

Compare [D.E. 11] with [D.E. 9]. The objections merit no further discussion, and the court adopts

the conclusions in the M&R.

In sum, petitioner's objections to the M&R [D.E. 11] are OVERRULED, and respondent's

motion to dismiss the petition without prejudice [D.E. 6] is GRANTED. The court DENIES a

certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336-38

(2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

SO ORDERED. This <u>5</u> day of November 2015.

AMES C. DEVER III

Chief United States District Judge